

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

ANDREW SHALABY & SONIA DUNN-) Case No. 07cv2107-W(BLM)
RUIZ,)
Plaintiffs,)
v.) **ORDER GRANTING *EX PARTE***
NEWELL RUBBERMAID, INC., et) **REQUESTS TO BE EXCUSED FROM**
al.,) **PERSONAL APPEARANCE**
Defendants.) **REQUIREMENT**

And related counterclaim.)

Before the Court are two *ex parte* requests to excuse parties or their insurers from the requirement that they personally appear at the Mandatory Settlement Conference ("MSC") set for October 14, 2008. The first request, a letter from Defendant Western Industries dated July 25, 2008, asks that a representative for Western Industries not be required to appear, because all authority to settle the case lies with the company's insurer, and the insurer will have a representative with full settlement authority present at the MSC. Ex. 1 (Western Industries' letter and supporting docu-

1 ments).¹

2 The second request, a letter from Defendants Newell
 3 Rubbermaid, Rubbermaid, Inc., The Home Depot, Bernzomatic, and Irwin
 4 Industrial Tool Company ("Newell Defendants") dated August 8, 2008,
 5 asks that AIG, the excess liability insurer for the Newell Defendants,
 6 be excused from having a personal representative present at
 7 the MSC. Ex. 2. In support, the Newell Defendants argue that it is
 8 unlikely that their liability exceeds \$3,000,000, the point after
 9 which the excess liability insurer may be required to contribute to
 10 the settlement. Id.

11 The parties' *ex parte* requests are **GRANTED** as follows.
 12 First, in accord with Judge Porter's previous order, Western
 13 Industries is not required to have a personal representative present
 14 on behalf of the company at the MSC. Western Industries is,
 15 however, required to have an insurance representative present with
 16 full settlement authority. Second, the Newell Defendants' excess
 17 liability insurer, AIG, is not required to have a representative
 18 present at the MSC. However, AIG shall have a representative with
 19 full settlement authority available by phone during the conference.

20 **IT IS SO ORDERED.**

21 DATED: August 13, 2008

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23
 24 BARBARA L. MAJOR
 United States Magistrate Judge

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 27 ¹Before being transferred to this Court, this case was before Magistrate
 28 Judge Louisa S. Porter. At that time, Western Industries requested to be
 excused from personally appearing at an MSC scheduled before that Court (Ex.
 1, containing copy of request), and Judge Porter granted that request (Doc. No.
 21, order).

1 COPY TO:

2 HONORABLE THOMAS J. WHELAN
3 UNITED STATES DISTRICT JUDGE

4 ALL COUNSEL AND PARTIES

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